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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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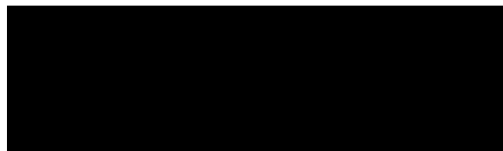
DATE: JUL 28 2011 OFFICE: NEBRASKA SERVICE CENTER



IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:




INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a physician. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

On the Form I-290B Notice of Appeal, counsel did not claim that any future brief or additional evidence would be forthcoming. Instead, counsel indicated that a brief filed with the Form I-290B constituted the entirety of the appeal.

In the appellate brief, counsel did not address the director’s decision to identify any errors of law or fact. Instead, counsel basically copied three pages of text from counsel’s January 14, 2009 letter that accompanied the initial filing of the petition. Counsel simply repeated previous claims, without explaining why the AAO should find those claims any more persuasive than the director did. Simply repeating previous claims, basically word for word, is not sufficient basis for a substantive appeal.

The only new language in the appellate brief is an introductory paragraph in which counsel repeatedly states that the appeal concerns a petition for classification as an alien of extraordinary ability under section 203(b)(1)(A) of the Act. The petitioner had filed such a petition, and the director denied it, but the receipt number on the instant Form I-290B and on counsel’s brief itself is the receipt number for the petition seeking to classify the petitioner as a member of the professions holding an advanced degree with a national interest waiver, under section 203(b)(2) of the Act. Even if the AAO were to assume that counsel meant to appeal the other denial decision, and simply put the wrong receipt number on the appeal and brief, the AAO would have summarily dismissed the appeal for the reasons stated above.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.